

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

FREDERICK M. PASHALL
CHARLOTTE L. PASHALL

Claim No. CU-2088

Decision No. CU

1899

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

Frederic J. Hodkin, Esquire

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$2,500.00, was presented by FREDERICK M. PASHALL and CHARLOTTE L. PASHALL and is based upon the asserted loss of real property in Cuba. Claimants have been nationals of the United States since their births in the United States.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

Claimants assert that they are the owners of two adjacent lots at the corner of Sinceridad Street and Avenida Jose M. Cortina Street in the village of San Diego de los Banos, Pinar del Rio Province, Cuba.

The record contains a copy of "Segregation and Sales Contract No. 45" of May 19, 1956, by which document claimants acquired Lot No. 3 at the corner of Sinceridad and Avenida Jose M. Cortina Streets, San Diego de los Banos, Pinar del Rio Province, Cuba, from Dr. Anibal Cabarrouy and his wife, Clementina Lessasier y Martinez. The record also contains a copy of "Sales Contract No. 18" of January 27, 1958, by which document claimants acquired a part of Lot No. 4 adjacent to Lot No. 3 (previously acquired by claimants) from the same purchasers. The record further contains a copy of "Declaration of Reorganization of Property No. 67" of May 17, 1958, by which document the two separately acquired parcels of realty were declared to be reconstituted as one parcel of realty.

The Commission, therefore, finds that claimants were the owners of the two united parcels of realty located at the corner of Sinceridad and Avenida Jose M. Cortina Streets, San Diego delos Banos, Pinar del Rio Province, Cuba.

On December 6, 1961 the Cuban Government published its Law 989 (Official Gazette XXIII, No. 237, p.23705) which confiscated all real and personal property of persons who had left the country. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966]).

As the record shows, claimants visited Cuba for the last time in 1960. The Commission finds, in absence of evidence to the contrary, that the subject real property was taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989.

Claimants assert that the subject real property had a value of \$2,500.00. The evidence of record establishes that claimants paid \$2,000.00 for Lot No. 3 and \$250.00 for the part of Lot No. 4 which they acquired in 1958.

Accordingly, the Commission finds that the value of claimants' real property was \$2,250.00 and that claimants suffered a loss in that amount as a result of the taking of their realty by the Government of Cuba on December 6, 1961.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (See Claim of Lisle Corporation, Claim No. CU-0644).

Accordingly, the Commission concludes that the amount of the loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from the date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that FREDERICK M. PASHALL and CHARLOTTE L. PASHALL suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Two Thousand Two Hundred Fifty Dollars (\$2,250.00) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

MAY 29 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)